

Appl. No. 09/760,379
Amdt. Dated Sept. 5, 2003
Reply to Final Office Action of March 11, 2003

REMARKS

Claims 1, 5-11, and 13-15 were pending in the instant application. By this Amendment, Applicants have amended claims 1 and 5 for clarity and to address the Examiner's concerns. Applicants have canceled claims 10 and 13 and amended claim 15 to change its dependency. Support for the claim amendments can be found in the specification and claims as originally filed, specifically, at pages 8-9, *inter alia*, of the specification. The present Amendment also follows a March 7, 2003 telephone interview between Examiner Kam and Applicants' undersigned attorney, Patrick T. Skacel. The remarks presented herein make of record the issues discussed during the interview. The present Amendment introduces no new matter, and thus, its entry is respectfully requested. Upon entry of the present Amendment, claims 1, 5-9, 11, and 14-15 will be pending.

March 11, 2003 Final Office Action:

Withdrawal of previous objections and rejections:

The Examiner withdrew the previous objection to claims 4, 5, 9, 10, and 13-15 and the previous rejections of claims 1-3, 6-8, and 11 under 35 U.S.C. § 102.

In response, Applicants acknowledge and appreciate the withdrawal of the above objection and rejections.

Examiner's Rejection under 35 U.S.C. §112, second paragraph:

The Examiner rejected claims 1, 5-11, and 13-15 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. Specifically, the Examiner asserted that the claims lacked essential steps in the method for isolation or purification of a proteinaceous material. The Examiner stated

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that the omitted steps are those of eluting the proteinaceous material from the solid phase and separating the proteins from the magnetic particles. The Examiner further asserted that claims 1 and 5 are indefinite in their recitation of the term "and/or". Finally, the Examiner stated that claim 10 lacks antecedent basis for the limitation "between steps (c) and (d)" and that claim 13 is indefinite for depending on canceled claim 4.

The March 7, 2003 Interview

In the March 7, 2003 telephone interview, Examiner Kam and Mr. Skacel discussed a proposed Examiner's Amendment which had been sent by fax to Mr. Skacel the previous day. The Examiner's proposed Amendment included the cancellation of claims 10 and 13, and amendments to claims 1 and 5, in which additional process steps were added and the "and/or" language was deleted. The Examiner indicated that the case would be allowable if the proposed Amendment were accepted by the Applicants by March 7, 2003. Applicants' undersigned attorney was not able to secure Applicants' approval for the Amendment on such short notice, and thus, the Examiner issued the March 11, 2003 Final Office Action.

In response, without conceding the correctness of the Examiner's position, but to advance prosecution of the subject application, Applicants have now amended claims 1 and 5 and canceled claims 10 and 13. Specifically, claim 1, as amended, recites additional steps which more clearly set forth the Applicants' claimed method, and which Applicant believes fully address the Examiner's concerns with respect to essential features of the invention. Applicants also have amended claim 1 to improve its overall clarity and have amended claim 5 by deleting the "and/or" language referred to by the Examiner in the Final Office Action. Applicants believe that the amendments to the claims

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are consistent with those proposed by the Examiner, and indicated by her to be sufficient to pass the case to allowance. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §112, second paragraph.

In view of the above amendments and remarks, it is believed that the claims satisfy the requirements of the patent statutes and fully address the Examiner's concerns as set forth in the March 11, 2003 Final Office Action. Reconsideration of the instant application and early notice of allowance therefore are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

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